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Unveiling the Gaps: A Socio-Legal Analysis of Laws and Policies Protecting Migrant Workers in India's Unorganized Sector

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1. PREFACE

For centuries, both forced and voluntary migration have served as crucial components of economic development and have shaped cultures and economies around the world. In India, labor migration emerges from a deteriorating socio-economic situation which includes poverty, unemployment, regional differences, and natural disasters. Unlike migrants in developed economies who are often attracted to move by the prospects of wealth and employment, India's migrant workers are primarily pulled by the desperate need to escape poverty and seek meager opportunities in employment in urban and industrial centers. As of April 02, 2025, these workers, numbering in the tens of millions, have become the backbone of India's unorganized sector and continue to enabling construction, agriculture and manufacturing while being mired in exploitation, marginalization, and legal neglect.

The unorganized sector exemplifies the paradox of migrant labor, constituting over 90% of India's workforce. Such workers are crucial to economic advancement, but remain unrecognized and unprotected. Economically, these workers contribute significantly, yet face enduring hardships including low pay, irregular employment, and limited access to healthcare, housing, or education for their children. The 2020 COVID-19 lockdown revealed this vulnerability, as millions experienced sudden unemployment and starvation, exposing the fragile systems that were supposed to protect them. Further attempts made through the e-Shram portal or through mandates from the Supreme Court have tried to control the fallout from the crisis, but these attempts haven't changed the underlying systemic issues. Promises of rights by laws such as The Inter-State Migrant Workmen Act, 1979 exist, but lack of enforcement leaves workers vulnerable to ruthless subcontractors and apathetic legislation.

This work examines the enduring issue of migrant workers in the Indian unorganized sector through a socio-legal lens, analyzing the legal structure regulating them. It investigates the law's historical evolution from colonial exploitation to protections granted after independence and how these laws lag behind the contemporary reality of chronic implementation deficits and human rights abuses. The study focuses on the social and economic push factors, coupled with legislative gaps, that heighten the risks in migrant-intensive nexus states like Gujarat in the aftermath of the 2020 lockdown. Notable judicial attempts to close these gaps, like the Bandhua Mukti Morcha v Union of India (1984), are stalled without comprehensive reform.

This study seeks to address J.K. Galbraith's (1979) view on how migration can be used as an effective strategy for alleviating poverty. In India, this potential is not realized, on account of lack of adequate safeguards. This work seeks to analyze legislative gaps, enforcement shortcomings, and the lived experiences of migrant workers to chart pathways for change. The aim here goes beyond critique: this work also seeks to make policy recommendations which ensure the dignity, equity, and resilience of this vital workforce. In doing so, this study hopes to advance the conversation on labor migration, human rights, and social justice, in the context of India, and beyond.

2. CONCEPTS AND DEFINITION

The research field includes covered legislation and migrant workers; their definition follows:

- A migratory worker is someone who looks for job either inside or outside of their own nation. Usually, migrant workers do not want to dwell permanently in the country or region where they find employment.
- Referring to Oxford Dictionary, "a person who moves to another country or area in order to find employment, in particular seasonal or temporary work".
- The Encyclopaedia Britannica defines migrant labour as casual, unskilled workers who methodically move from one place to another temporarily, usually seasonally.
- The International Organisation of Migration (IOM) distinguishes work migrants from economic migrants. It mentions several subgroups of migrant workers: business travellers, contract migrant workers, established migrant workers, highly skilled migrant workers, immigrant investors, project-tied workers, seasonal migrant workers, temporary migrant workers.
- Those who migrate in pursuit of employment are known as labour migrants.
- Though they can also be seen in a more limited sense similar to the category of "labour migrants," "economic migrants" comprise a perhaps bigger group including those entering a state to engage in economic activity, such investors or business travellers.
- A "migrant worker" is defined by the International Labour Organization (ILO) as any individual usually admitted as a migrant for employment, or as someone who

transfers from one nation to another (or from one country to another) with a view to be employed other than on their own account.

- Under the United Nations Convention on the Protection of the Rights of all Migrants Workers and Members of their Families, a migrant worker is defined as someone who is to be involved, is engaged or has been engaged in a remunerated activity in a state of which they are not a citizen.
- According to the United Nations Population Division, irregular migrants—sometimes referred to as undocumented immigrants—enter a country often in search of employment without the required papers or permissions or who overstay the permissible length of stay in the country.
- Law is a set of norms of behavior produced by government or society over a certain territory. Using certain customs and standards, it covers numerous spheres like crime, business, social interactions, property, and finance. The law is applied and controlled by the regulating authority.
- John Austin's law definition is, "Law is the aggregate set of rules set by a man as politically superior, or sovereign to men, as political subjects." This concept so characterizes law as a set of rules to be followed by all, regardless of their status.
- Hans Kelsen produced a "pure theory of law". Kelsen states, law is a "normative science". Kelson's legal definition provides general direction instead than trying to say exactly what has to happen.

3. BACKGROUND OF THE RIGHTS OF MIGRANT WORKERS

Reiterating the focus on the foundational aspects UNESCO principles of Convention against Discrimination in Education, there is an International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, or with regard to the standards and principles mentioned in other relevant documents formulated under International Labour Organisation framework. These include, inter alia, the Convention concerning Employment of Migrants, and the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 97), the Recommendation concerning Employment of Migrant Workers (No. 86), the Recommendation concerning Migrant Workers (No. 151), the Convention concerning Forced or Compulsory Labour (No. 29), and the Convention concerning the Abolition of Forced Labour (No. 105). Also relevant are The

Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, The Code of Conduct for Law Enforcement Officials, Slavery Conventions, The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and UNESCO Convention against Discrimination in Education.

Worker rights are protected by the Indian Constitution. The Framework outlines boundaries in the Preamble, Fundamental Rights, and Part IV, which contains Directive Principles of State Policy. The Constitution provides only a modest range of workplace rights, enabling the shift from economic advancement to social welfare. Comprehensive integrated development requires an equitable package of rights available to all workers. The Indian Constitution explicitly conveys the aim to foster and grant social justice to all its workers. There exists an intertwined network of labour laws and government social security schemes.

The following laws now govern migrant labor in India:

- Employees' Compensation Act of 1923; Equal Remuneration Act of 1976; Minimum Wages Act of 1948; Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act of 1979; and Paymcnt of Wages Act of 1936
- The Maternity Benefit Act of 1961
- The ILO's 1998 Declaration on Fundamental Rights and Workplace Principles
- Unorganised Workers' Social Security Act of 2008

These laws aim to provide social security, migrant worker benefits, employment of migrant workers from other states, contractor licenses, contractor duties and obligations, welfare facilities, and other advantages to workers in the unorganised sector.

4. REVIEW OF LITERATURE

A concise overview of the current research on migration is provided here to help you better understand the issue of labor migration and the protections offered to migrant workers. Researchers and academics have looked at the challenges' many facets. The majority of the literature the researcher found focused on the problem's socioeconomic elements, policy viewpoints, administrative procedures, and legal considerations pertaining to migrant workers, among other topics that will be included in the study report.

- The International Labour Organization has thoroughly investigated the issues of occupational safety and health of migrant workers worldwide in their study on Safety and Health of Migrant Workers – International Symposium, 5. It looked studied the factors that contribute to migrant workers' workplace accidents and found that they are more likely to occur.

- A research was carried out in the State of Uttar Pradesh by Nijam Khan (1986). It was based on field data gathered from twenty Uttar Pradesh villages that were chosen at random. According to the report, the absence of improved job prospects and tiny land holdings in rural regions were causing economic backwardness, which was driving people to seek work in metropolitan centers or other irrigated areas.According to Nijam Khan, migration was a seasonal phenomenon at first but has now become a permanent one. The difficulties experienced by migratory workers have not been covered in this study, which focuses solely on the causes of migration.

- N. Ajith Kumar (2011) studied the aspects of migrant workers' vulnerability in Kerala State, India, a subnational setting. According to his analysis, migrants are unable to take advantage of some of the benefits they were previously able to obtain from the Central Government and State Governments because of the restrictions on the mobility of entitlements. As a result, the host state does not provide migrant workers with all the protections afforded to local labor, even when they are from the same nation.

- While outlining the reasons for migration, Vidyut Joshi (2014) states without hesitation that new forms of seasonal and temporary labor have arisen in the post-independence era due to planned industrial and technical progress. The hardships of migrant laborers working on government projects in Uttar Pradesh (the Tehri Garhwal Project) in Kashi are discussed by Vidut Joshi in this book. These project activities involved the hiring of Orissan and Bihari laborers, including women and children, in violation of all labor regulations, including the Inter-State Migrant Workers (Regulation of hiring and Conditions of Service) Act of 1979. The majority of these laborers, particularly those from Orissa, were Dadan laborers. There is no mention of migrant worker social assistance programs in this report. The thesis first chapter may include the literature review for the study on laws pertaining to migrant workers in India for the doctoral program.

5. PROBLEM STATEMENT

India is home to one of the world's largest migrant labour forces. This group significantly contributes to Indian economic growth through their work in the construction industry, agriculture, and manufacturing, helping to propel India's economic recovery alongside initiatives such as Gati Shakti. However, they are often trapped in a cycle of social exclusion, insufficient legal protections, and social marginalization. As of April 2, 20225, this segment of the population continues to face multiple layers of sustained exploitation without adequate legal safeguards. The social and economic fallout from COVID-19 in 2020 highlighted India's structural shortcomings—for years, millions of migrants had been left jobless and stranded without access to crucial resources, while support systems and safety nets in place crumbled like dust amid a pandemic. Following the pandemic, attempts to resolve the appeal by setting up the e-Shram portal or the 2021 Supreme Court ruling have failed to solve the root issues within the legal and policy framework, leaving migrant workers vulnerable to persistent hardships.

This issue stems from a gap between the legislative intentions of policies made in India and their practical results. The laws Inter-State Migrant Workmen Act of 1979 and the Unorganised Workers' Social Security Act of 2008, which aim at offering some form protection, face challenges with implementation duc to lack of enforcement, low levels of information among stakeholders, and lacking a holistic approach towards migration, which considers poverty, unemployment, and interregional imbalances. This is much more pronounced in the unorganized sector which employs over 90% of the workforce in India, operating outside the formal economy and legal frameworks. Workers in these informal sectors face severe exploitation from unscrupulous employers in the guise of contract labor, facing wage theft and long working hours, substandard housing, and no access to health care, sanitation, or education for their children. These amounts to violations of both domestic legal frameworks and human rights treaties to which India is a signatory.

Some judicial rulings, including People's Union for Democratic Rights v Union of India (1982) and Bandhua Mukti Mukti Morcha v Union of India (1984), have tried to protect the rights of migrant workers and have been addressing their concerns. However, such intervention has limited impact in attempting to fulfill the legislative and implementation gap. Moreover, relocation for work results in social alienation, which increases the likelihood of mental health concerns and occupational dangers.

The nature of work these individuals undertake stunts intergenerational advancement. In Gujarat, one of the major centers of migration, these issues are exacerbated by a concentration of workers from other states and the lack of enforcement at the local level.

This study intends to explore gaps in the safeguarding of migrant workers' rights within the context of socio-economic factors that perpetuate their vulnerability alongside inadequacies in the legal framework and lack of enforcement mechanisms. It seeks to analyze the unorganized sector to devise strategies that address systemic failures and can reconstruct existing frameworks to guarantee dismantling of inequitable structures and empowerment of resilience for this indispensable workforce. This is not simply a matter of policy creation; it is about implementation in ways that transform the lived experiences of migrant workers, requiring socio-legal perspectives to reveal and resolve these persistent disparities.

6. SIGNIFICANCE OF THE RESEARCH

The situation of migrants, particularly those from the unorganized sectors in India, remains an unresolved issue of socio-economic and human rights concern, particularly highlighted with the advent of the COVID-19 lockdown on March 25, 2020. This exposed long-standing vulnerabilities such as social security gaps and legal protections, along with mounting unemployment, stranding individuals and necessitating government and judicial action. As of April 02, 2025, despite gap filling policy actions such as the issuing of e-Shram cards for unorganized workers and apex court's welfare and transport mandates, unaddressed systematic issues still persist. There is ongoing abuse of migrant workers and widespread issues of exploitation, miserable working conditions, deprivation of basic schooling and health services, and a total absence of legal frameworks in the informal sector which employs more than 90% of the Indian workforce.

This study examines the historical, legal, and socio-economic issues related to the protection of migrant workers, thus revealing new scholarly insights and practical implications. The history of rights protection has oscillated between safeguarding workers in the post-colonial era and labor market flexibility during the liberalization period. Current legislation, including the Inter-State Migrant Workmen Act of 1979 and the Unorganised Workers' Social Security Act of 2008, lacks consistent enforcement, particularly for interstate and undocumented migrants. This study

highlights judicial gaps created by enforcement inertia in social welfare law, focusing on the Bandhua Mukti Morcha v Union of India (1984) and recent Supreme Court 2021 rulings, to reveal the cumulative inadequacy of legal intervention toward welfare provision.

The unorganized sector is especially significant because it offers almost exclusively construction, agriculture, and manufacturing work to migrant laborers, who—though constituting a sizable but unseen portion of the workforce—lack access to meaningful rights. Coverage from the media suggests that more than 10 million migrants were trying to return home during and after the 2020 lockdown, with many of them starving and suffering rights abuses. This research situates these developments within a broader socio-legal framework, highlighting the ways in which poverty, regional disparity, and insufficient policies act as push factors.

The findings from the study may make an impact on policy reform at this crucial moment. There is currently an increased need for migrant workers with the country in recovery from the pandemic and the government setting infrastructure development targets for 2025 with programs like Gati Shakti, but protective measures for workers are absent. The research seeks to change policies at the national and regional level by proposing issue-based solutions such as enhanced enforcement, raising awareness among the workforce, and tailoring approaches aimed at Gujarat, a state with high migration numbers. On an international level, the research also contributes by using ILO conventions on human rights to discuss India's concerns with migrant workers and provides a comparative perspective.

This study contributes to scholarship by presenting a unique socio-legal analysis, incorporating primary data such as the Gujarat RTI statistics, as well as providing a methodological blueprint. It fills a gap in the intersection of law, human rights, and migration within India, serving as a touchstone for scholars addressing issues of labor policy, social justice, and economic disparity. This study highlights the need to radically rethink the protective framework for migrant workers to foster dignity, equity, and resilience in an increasingly complex socio-economic reality.

7. OBJECTIVE OF RESEARCH

The aim of this study is to determine if the first legislation of India solely concerning the elderly issue,

- Constructing the legal and policy history regarding the movement of workers in India.
- Assessing the adequacy of legal protection afforded to migrant workers employed in the informal sector.
- Analyzing the human rights issues confronted by workers in the informal sector in India.
- Examining the socio-legal determinants of migration and the level of legal protection afforded to such migrants.
- Analyzing the impact of court actions on the protection of the rights of migrant workers.
- Formulating effective strategies aimed at improving the socio-legal status and rights of migrant workers.

8. Research Questions:

- To identify the changes over time in legal frameworks and policies concerning migrant workers in India.
- To assess the gaps within the existing legal protections provided to migrant workers, focusing on the unorganized sector.
- To study the violation of basic freedoms and human rights of migrant workers in the unorganized sector of India.
- To assess the legal gaps and socio-economic reasons for the migration of labor and the relationship between the two.
- To study the impact of legal activism on the protection of rights and privileges granted to migrant workers.
- To suggest measures directed toward the progressive improvement of the welfare and rights of migrant workers.

9. HYPOTHESIS

The current legal framework governing migrant workers in India's unorganized sector, despite its historical evolution and judicial reinforcements, fails to adequately protect their human rights and socio-economic well-being due to systemic deficiencies in enforcement, limited awareness among workers and employers, and an inability to address the underlying push factors of migration such as poverty and regional inequality, thereby necessitating comprehensive policy reforms to bridge these gaps

and enhance welfare outcomes, particularly in the context of post-2020 lockdown vulnerabilities.

10. SCOPE OF THE RESEARCH

The extent of a research project relates to the width and limits of the activities the investigation will be carried out inside. The scope's defined parameters assist to specify the scope of the study. Within the framework of the research on migrant laborers in India, particularly with the 2020 shutdown, the extent can be seen as:

- Though it also explores the historical backdrop of laws and regulations pertaining to migrant labor, therefore providing a more complete temporal perspective, the study mostly concentrates on the post-lockdown period of 2020.
- Understanding and evaluating the legal framework around migrant labor in India is one of the main areas of focus of this work. This entails delving deeply into current labor rules, their application, and their flaws.
- Although the report may have particular references to places like Gujarat, it seeks to provide a whole pan-India viewpoint, therefore addressing migration patterns over several states.
- The analysis presents a whole picture of the job trends in India by include migrant workers in both organized and unorganized sectors.
- Examining the matter from a human rights perspective is quite important for this research. This covers knowing the rights breaches migrants experience as well as more general socio-legal consequences.
- The study will also place the condition of Indian migrant labor in an international setting by contrasting and evaluating policies and systems with other nations.
- Tracing and comprehending employment patterns of migrant labor is one of the main objectives, breaking out the responsibilities, obstacles, and possibilities in both organized and unorganized sectors.
- Apart from the legal and financial angles, the study will investigate the social and cultural aspects of migration, therefore illuminating the actual experiences of migrants.
- Based on the results, the study seeks to propose possible remedies and approaches to handle the issues related to migrant labor.
- Providing a methodological guide and a thorough database, the research aims to be a basic reference for next studies on migration concerns in India.

The study's scope is essentially broad, meant to offer a multi-farious picture of migrant labor in India. Understanding the historical, legal, societal, and financial aspects of the problem helps one to present a whole story on it.

11. LIMITATIONS OF THE STUDY

No matter how thorough a research project is, it always has certain limits. For the researcher as well as the reader, knowing these constraints helps to shape the background in which the results of the study should be understood. The following are some possible limits on the research on Indian migrant workers:

- The survey might not cover all areas consistently given the expanse of India and the different migrant trends. Certain locales, particularly far-off ones, might not have as much study done on them.
- The study mostly looks at the 2020 post-lockdown phase. Although this is important, it could not fully reflect the changing historical background of migrant work in India.
- One finds difficult reliable and thorough data on migratory labor. Many migratory workers may not be properly recorded as most of the migration happens informally.
- Particularly regarding their suitability, the interpretations of legal frameworks can be arbitrary. Regarding the same clauses, different academics could view things differently.
- Particularly in reaction to the current crisis, the legal and policy landscape around migrant labor is fast changing. The study could not include the most recent additions or clauses.
- India stands out for great socio-cultural variety. Generalizing results over such a varied background may ignore the subtleties of distinct communities or areas.

Acknowledging these constraints helps to contextualize the results of the study rather than devalues its worth. Understanding these limitations will help future studies to fill in these voids and offer a more complete knowledge of migrant work in India.

12. ANALYSIS AND INTERPRETATION

Primary and secondary statistical data will be gathered for the research utilizing MS Excel and either PSPP or SPSS program and arranged either way. The research report will show the data using percentage-based average tabulation, graphical representations, and textual explanations among other approaches. Following classifying and tabulating the acquired data, we will apply analytical instruments

including cross-tabulation, ANOVA test, weighted average, and ranking analysis to examine the data.

13. RESEARCH METHODOLOGY

The present work integrates theoretical study with survey research. There are, theoretically, main and secondary sources. Main sources include analyzing international instruments, constitutional and legislative clauses, government reports, official paperwork including higher court opinions. In interim, among other books, magazines, newspapers, journals, and websites, are the secondary sources. The major objective of this study is to investigate the human rights and sociopolic stance of migrant workers involved in the unorganized sector in India. It aims to demonstrate the court's attitude toward safeguarding the rights of unorganized sector workers from diverse backgrounds as well as the international, constitutional, and statutory backdrop. Policies and initiatives engaged will be hotly debated. The questionnaire will thus enable all potential responses, including a box for "other."

Furthermore acquired under the Right to Information Act, 2005, from the Labor Department, Government of Gujarat, will be statistics on migrant workers engaged in the construction and agricultural sectors in the State of Gujarat. Twenty-five questions have been developed covering welfare programs, registered beneficiaries, and State Government of Gujarat's efforts in implementing recommendations established by the Apex court for the welfare of migrant workers. The study results will be published in the form of a comprehensive report scattered over multiple chapters after appropriate statistical and mathematical methodologies to analyze and organize data from primary and secondary sources. The study effort consists in six chapters, following:

14. CHAPTERASATION

This research may be discussed into 5 chapters, are follows

Chapter 1: Introduction and Conceptual Framework

- Introduction to the research problem (migrant worker vulnerabilities, legal gaps).
- Significance, objectives, research questions, and hypothesis.
- Conceptual definitions (migrant workers, unorganized sector, socio-legal framework).
- Review of literature (key studies, identified gaps).

- Research methodology and scope (pan-India with Gujarat focus, post-2020 emphasis).

Chapter 2: Historical and Socio-Economic Context of Labor Migration in India

- Historical evolution of migration and labor laws (colonial to post-independence).
- Socio-economic drivers (poverty, unemployment, regional inequality).
- Impact of the 2020 lockdown on migrant workers (push factors, vulnerabilities).
- Migration patterns and unorganized sector dynamics (national and Gujarat-specific).

Chapter 3: Legal Framework and Implementation Challenges

- Overview of laws governing migrant workers (e.g., Inter-State Migrant Workmen Act, 1979).
- International conventions and their influence (e.g., ILO, UN frameworks).
- Implementation gaps (enforcement, awareness, contractor accountability).
- Case studies of legal application (e.g., Gujarat data under RTI Act).

Chapter 4: Human Rights, Judicial Interventions, and Socio-Legal Realities

- Human rights violations (exploitation, health, education access).
- Judicial precedents (e.g., *Bandhua Mukti Morcha v Union of India*, *People's Union for Democratic Rights v Union of India*).
- Socio-legal analysis of unorganized sector workers' plight (national and Gujarat-specific).
- Data analysis (surveys, RTI data, statistical tools like ANOVA).

Chapter 5: Synthesis, Policy Recommendations, and Conclusion

- Synthesis of findings (legal gaps, socio-economic links, human rights outcomes).
- Validation or refutation of the hypothesis.
- Policy recommendations (enforcement reforms, awareness campaigns, Gujarat-specific strategies).
- Conclusion and implications for future research.

15. BIBLIOGRAPHY

The details bibliography of all the information such as research papers, books, articles, reports, electronic media, etc. used during will be given at the end of the thesis.

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